

STATE OF INDIANA)
)
COUNTY OF HANCOCK)

IN THE HANCOCK CIRCUIT COURT
SS:
CAUSE NO. 30C01-0505-PL-350

STATE OF INDIANA,)
)
 Plaintiff,)
)
 v.)
)
DENNIS DEAN SAYERS,)
individually and doing business as)
M&D MECHANICAL, INC., and)
M&D MECHANICAL, INC.)
)
 Defendants.)

DEFAULT JUDGMENT

The Plaintiff, State of Indiana, having filed its Motion for Default Judgment, and the Court having read the same and being duly advised *in the premises*, now finds:

1. The Court has subject matter jurisdiction and personal jurisdiction over the Defendants, Dennis Dean Sayers and M&D Mechanical, Inc.
2. The Defendants were served with notice of these proceedings and a copy of the Complaint for Injunction, Restitution, Costs, and Civil Penalties
3. The Defendants have failed to appear, plead, or otherwise respond to the amended complaint.
4. The Defendant, Dennis Dean Sayers, is not an infant, incompetent, or in military service.
5. The United States Bankruptcy Court closed the bankruptcy case of the Defendant, M&D Mechanical, on March 30, 2005, thereby lifting the stay and allowing the State of Indiana to proceed with this matter.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Motion for Default Judgment is **GRANTED** in favor of the Plaintiff, State of Indiana, and against the Defendants, Dennis Dean Sayers and M&D Mechanical, Inc.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to Indiana Code § 24-5-0.5-4(c)(1), the Defendants, Dennis Dean Sayers and M&D Mechanical, Inc., their agents, representatives, employees, successors and assigns are permanently enjoined from engaging in the following:

- a. in the course of entering into home improvement transactions, failing to provide to the consumer a completed home improvement contract which includes at a minimum the following:
 - (1) The name of the consumer and the address of the residential property that is the subject of the home improvement;
 - (2) The name and address of the home improvement supplier and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;
 - (3) The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract;
 - (4) A reasonably detailed description of the proposed home improvements;

- (5) If the description required by Ind. Code §24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;
 - (6) The approximate starting and completion date of the home improvements;
 - (7) A statement of any contingencies that would materially change the approximate completion date;
 - (8) The home improvement contract price; and
 - (9) Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or typed version of that person's name placed directly after or below the signature;
- b. in the course of entering into home improvement transactions, failing to agree unequivocally by written signature to all of the terms of a home improvement contract before the consumer signs the home improvement contract and before the consumer can be required to make any down payment;
- c. in the course of entering into home improvement transactions, failing to provide a completed home improvement contract to the consumer before it is signed by the consumer;

- d. in the course of entering into home improvement transactions, failing to obtain the necessary license or permit as required by law prior to commencing any home improvement work;
- e. representing expressly or by implication the subject of a consumer transaction has sponsorship, approval, characteristics, accessories, uses, or benefits it does not have which the Defendants know or reasonably should know it does not have;
- f. representing expressly or by implication a specific price advantage exists as to the subject of a consumer transaction, if it does not and if the Defendants know or should reasonably know it does not;
- g. representing expressly or by implication the subject of a consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, if the representation is false and if the Defendants know or should reasonably know the representation is false;
- h. representing expressly or by implication the Defendants are able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when the Defendants know or reasonably should know they can not; and
- i. representing expressly or by implication that a consumer will be able to purchase the subject of a consumer transaction as advertised by the Defendants, when the Defendants do not intend to sell it.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered for the Plaintiff, State of Indiana, and against the Defendants, Dennis Dean Sayers and M&D Mechanical, Inc., as follows:

a. The contracts previously entered into by the Defendants with consumers, John Williamson, Mathew and Michelle Huntsman, and James Miller, are cancelled pursuant to Ind. Code § 24-5-0.5-4(d).

b. The Defendant, Dennis Dean Sayers, shall pay consumer restitution, pursuant to Ind. Code § 24-5-0.5-4(c)(2), for John Williamson of Colorado City, Texas, in the amount of One Thousand Eight Hundred Dollars (\$1,800.00), payable to the Office of the Attorney General;

c. The Defendant, Dennis Dean Sayers, shall pay consumer restitution, pursuant to Ind. Code § 24-5-0.5-4(c)(2), for Matthew and Michelle Huntsman of Indianapolis, Indiana, in the amount of Five Thousand Eight Hundred and Forty-Nine Dollars (\$5,849.00), payable to the Office of the Attorney General;

d. The Defendant, Dennis Dean Sayers, shall pay consumer restitution, pursuant to Ind. Code § 24-5-0.5-4(c)(2), for James Miller of Bend, Oregon, in the amount of Two Thousand Six Hundred and Fifty Dollars (\$2,650.00), payable to the Office of the Attorney General;

e. The Defendant, Dennis Dean Sayers, shall pay the Office of the Attorney General its costs in investigating and prosecuting this action, pursuant to Ind. Code § 24-5-0.5-4(c)(3), in the amount of Nine Hundred Ninety-One Dollars and Forty-Four Cents (\$991.44);

f. The Defendants, Dennis Dean Sayers and M&D Mechanical, Inc., shall pay civil penalties pursuant to Ind. Code § 24-5-0.5-4(g) for the Defendants' knowing violations of the Deceptive Consumer Sales Act, in the amount of Three Thousand Dollars (\$3,000.00), payable to the State of Indiana; and

g. The Defendants, Dennis Dean Sayers and M&D Mechanical, Inc., shall pay civil penalties pursuant to Ind. Code § 24-5-0.5-8 for the Defendants' intentional violations of the Deceptive Consumer Sales Act, in the amount of Three Thousand Dollars (\$3,000.00), payable to the State of Indiana.

A total monetary judgment in the amount of Seventeen Thousand Two Hundred Ninety Dollars and Forty-Four Cents (\$17,290.44) shall therefore be entered in favor of the Plaintiff, State of Indiana, and against the Defendants, Dennis Dean Sayers and M&D Mechanical, Inc.

ALL ORDERED, ADJUDGED AND DECREED on this 25 day of

October, 2005.



Judge, Hancock Circuit Court

DISTRIBUTION:

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